

**CHILD LABOR FINAL RULE, NONAGRICULTURAL EMPLOYMENT 14- AND 15-
YEAR-OLDS – MAJOR CHANGES**

<u>CURRENT RULE</u> CHILD LABOR REG. NO 3 Title 29 CFR 570, Subpart C Prior to July 19, 2010	<u>FINAL RULE</u> CHILD LABOR REG. NO 3 Title 29 CFR 570, Subpart C Effective on July 19, 2010
<p>Reg. 3 at §§ 570.33 and 570.34—Statute is clear that 14- and 15-year-olds may do only those tasks the Secretary of Labor declares they may do, but the regulation is not as clear.</p>	<p>Reg. 3 at §§ 570.33 and 570.34—Regulation revised so that it is clear that 14- and 15-year-olds may do only what the Secretary of Labor has declared they may do. “If a task is not specifically permitted, it is prohibited.”</p>
<p>Reg. 3 at §§ 570.33 and 570.34—Currently, employment of 14- and 15-year-olds is generally restricted to only food service, retail, and gasoline service establishments. This precludes employment in several industries in which youth can be safely employed, such as state and local governments, banks, advertising agencies, etc. Current rule also has several “prohibitions” that apply only to the three industries named above, causing some employers to mistakenly believe such tasks may be performed in other industries.</p>	<p>Reg. 3 at §§ 570.33 and 570.34—The final rule reorganizes these sections so as to remove the distinction between retail, food service, and gasoline service establishments and other industries and permits the employment of 14- and 15-year-olds to perform safe tasks in other establishments. It also “consolidates” into a single section the permitted occupations and in a separate section identifies common prohibited occupations, whereas both were previously commingled in §§ 570.33 and 570.34.</p>
<p>Reg. 3 at §§ 570.33(c) and (f) and 570.34(a)—Rule does not specifically address when 14- and 15-year-olds may be employed to ride inside and outside of motor vehicles. Rule also prevents such youth from loading any items onto (or from) a motor vehicle—including personal hand tools and personal items.</p>	<p>Reg. 3 at §§ 570.33(f) and (k) and 570.34(k)—Clarifies when youth can ride inside and outside of passenger compartments of motor vehicles and coordinates rules with HO 2 (§ 570.52). Also allows youth to load and unload hand tools and personal items that he or she will use at the job site onto and from motor vehicles.</p>
<p>Reg. 3 § 570.34(b)(7)—Prohibits 14- and 15-year-olds from working inside meat coolers and freezers.</p>	<p>Reg. 3 § 570.33(i)—Clarifies the provisions regarding youth working inside meat coolers and freezers and allows youth, on an occasional basis, to momentarily enter a freezer (but not a meat cooler) to retrieve items.</p>

CURRENT RULE CHILD LABOR REG. NO 3 Title 29 CFR 570, Subpart C Prior to July 12, 2010	FINAL RULE CHILD LABOR REG. NO 3 Title 29 CFR 570, Subpart C Effective on July 12, 2010
<p><u>Youth Peddling</u>—Current rule has no provisions regarding door-to-door sales or youth peddling. Many injuries and even deaths have occurred to youth working as youth peddlers.</p>	<p><u>Reg. 3 § 570.33(j)</u>—Bans youth peddling and door-to-door sales by youth under 16 years of age. Also prohibits such youth from promotional employment as “sign wavers” unless performed directly in front of the employer’s establishment.</p>
<p><u>Poultry Catching</u>—Current rule has no language specifically prohibiting the employment of 14- and 15-year-olds in the catching and cooping of poultry for market or slaughter; but such work is prohibited because it is a “processing occupation.”</p>	<p><u>Reg. 3 § 570.33(l)</u>—Adds poultry catching and cooping as a named prohibited Reg. 3 occupation in order to clarify and facilitate compliance.</p>
<p><u>Intellectual or artistically creative occupations</u>—Reg. 3 currently does not contain provisions permitting 14- and 15-year-olds to perform certain tasks involving intellectual or artistic talents that involve industries and tasks that do not jeopardize the minor’s health, well-being, or education.</p>	<p><u>Reg. 3 § 570.34(b)</u>—Creates a new “permitted” occupation for work of an intellectual or artistically creative nature. Includes sufficient safeguards to ensure these young workers do not perform otherwise prohibited tasks or work during prohibited time periods.</p>
<p><u>Lifeguards</u>—Regulations do not currently permit minors under 16 to work as lifeguards. The Department has developed an enforcement position over the last 7 years that permits properly certified 15-year-olds, but not 14-year-olds, to perform most duties of a life guard at traditional swimming pools and water amusement parks—but not at natural environments.</p>	<p><u>Reg. 3 § 570.34(l)</u>—Creates a new “permitted” occupation allowing 15-year-olds to work as lifeguards and swimming instructors at swimming pools and water amusement parks if properly trained and certified. Places in the regulations the Department’s long standing position that prohibits anyone under 16 from working as a dispatcher on elevated water slides or as a lifeguard at natural environment swimming facilities (lakes, rivers, ocean beaches, quarries, piers).</p>
<p><u>FLSA Section 13(c)(7)</u>—This statutory child labor exemption, which is not yet incorporated into the regulations, allows certain youth to work inside and outside of businesses that use power-driven equipment to process wood products.</p>	<p><u>Reg. 3 § 570.34(m)</u>—Incorporates the provisions of FLSA Section 13(c)(7), enacted in 2004, which allows 14- and 15-year-olds to be employed inside and outside places of business that use power-driven machinery to process wood products under specific conditions. The final rule also changes HO 4 (§ 570.54) to accommodate the amendment.</p>

CURRENT RULE CHILD LABOR REG. NO 3 Title 29 CFR 570, Subpart C Prior to July 12, 2010	FINAL RULE CHILD LABOR REG. NO 3 Title 29 CFR 570, Subpart C Effective on July 12, 2010
<p><u>Reg. 3 § 570.35(a)(5)</u>—Current rule limits the number of hours 14- and 15-year-olds may work to 3 hours on a school day; but the rule does not specifically state “including Fridays.” This has caused some confusion among employers.</p>	<p><u>Reg. 3 § 570.35(a)(5)</u>—Clarifies that the 3-hour limit on employment on a school day includes Fridays. As amended, § 570.35 also clarifies that the prohibition on working during “school hours” refers to the hours that the local public school where the minor resides while employed is in session.</p>
<p><u>Reg. 3 § 570.35(b)</u>—Current regulations limit the number of hours 14- and 15-year-olds may work in a week, but do not define the term <i>week</i>. The Department has traditionally defined <i>week</i> to mean the 168 hour period beginning at 12:01 a.m. Sunday morning and ending at midnight of the next Saturday.</p>	<p><u>Reg. 3 § 570.35(b)</u>—Requires employers to use the same “week” (168 hour period) for determining compliance with the child labor provisions as it establishes for determining if employees are due overtime.</p>
<p><u>Work Study Program</u>—Regulations do not currently accommodate work study programs already in existence that help inner-city high school students obtain quality college preparatory educations from prestigious educational organizations.</p>	<p><u>Reg. 3 § 570.37</u>—Creates a work-study program (WSP) for academically oriented youth, similar to the existing Work Experience and Career Exploration Program (WECEP) contained in § 570.36, that would allow such youth to work during school hours, with sufficient safeguards to ensure that their employment does not interfere with their health, well-being or education.</p>